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10 **UNITED STATES DISTRICT COURT**

11 **DISTRICT OF NEVADA**

12  
13 RICHARD CHOWNING,

14 Plaintiff,

15 v.

16 NATIONWIDE INSURANCE COMPANY  
17 OF AMERICA, *et al.*,

18 Defendants.  
19

**Case No.:** 22-cv-00798-CDS-EJY

**STIPULATION AND ~~PROPOSED~~  
ORDER TO LIFT THE STAY AND  
SET A NEW CASE SCHEDULE**

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21 Plaintiff Richard Chowning (“Plaintiff”) and Defendants Nationwide Insurance  
22 Company of America, Allied Insurance Company of America, Nationwide Agribusiness  
23 Insurance Company, Titan Insurance Company, Victoria Fire & Casualty Company, and  
24 Depositors Insurance Company (collectively “Defendants”), by and through their attorneys  
25 of record, submit the following stipulation and proposed order to lift the stay on the  
26 proceedings in this case and set a new case schedule.  
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### **Relevant Background**

1. This case stems from an underlying tort action that a third-party named Deeanna Parks initiated against Plaintiff Richard Chowning on February 29, 2016, in the District Court of Clark County entitled Deeanna Parks v. Richard Chowning, Case No. A-16- 732611-C (the “Underlying Action”).

2. On April 11, 2023, the Court issued an order staying the proceedings in this case pursuant to a stipulation by the parties. [See Doc. 101.] According to that order, the parties are to notify the Court upon the resolution of the appeal in the Underlying Action and jointly submit a proposed schedule for the completion of discovery in this action along with a proposal for the other remaining pre-trial deadlines, i.e., the filing of dispositive motions, the filing of FRCP 26(A)(3) disclosures, and the filing of the Pretrial Order.

3. On July 2, 2024, the Supreme Court of Nevada issued an order affirming the first appeal in the Underlying Action (i.e., Case No. 86158). As of the date of this stipulation, the time within which Mr. Chowning could seek an *en banc* review of that order has expired.

4. Thereafter, on July 29, 2024, the Supreme Court of Nevada issued an order dismissing the second appeal in the Underlying Action (i.e., Case No. 87219) in response to Deanna Parks’ notice of voluntarily withdrawing that appeal.

5. Because both of the appeals in the Underlying Action have been resolved, the parties submit this stipulated request for the Court to lift the stay in this case and to issue a new schedule for the remaining pre-trial deadlines. We also provide a summary of the motions in this action that remain pending before the Court.

### **Motions in this Case that Remain Pending**

6. At the time the parties asked the Court to stay the proceedings in this case, there were a total of six motions pending before the Court that had yet to be resolved. We have outlined those motions here for the convenience of the Court.

7. **Pending Motion No. 1:** On July 8, 2022, Chowning filed a Motion for Summary Judgment. [See Doc. 12.] Defendants filed an opposition to that motion on July

29, 2022. [See Doc. 18.] On August 3, 2022, and on August 5, 2022, Chowning filed reply briefing. [See Docs. 20 and 21.] As of the date of this stipulation, the Court has not issued a ruling on that motion.

8. **Pending Motion No. 2:** On October 4, 2022, Chowning filed a motion to supplement his prior motion for summary judgment. [See Doc. 33.] Defendants filed an opposition to that motion on October 18, 2022. [See Doc. 37.] Chowning filed a reply brief on October 24, 2022. [See Doc. 38.] As of the date of this stipulation, the Court has not issued a ruling on that motion.

9. **Pending Motion No. 3:** On October 18, 2022, Chowning filed a second motion to supplement his motion for summary judgment. [See Doc. 36.] Defendants filed an opposition to that motion on November 1, 2022. [See Doc. 41.] Chowning filed a reply brief on November 2, 2022. [See Doc. 42.] As of the date of this stipulation, the Court has not issued a ruling on that motion.

10. **Pending Motion No. 4:** On October 24, 2022, Chowning filed a second motion to amend his complaint. [See Docs. 39 and 40.] Defendants filed an opposition to that motion on November 7, 2022. [See Doc. 45.] Chowning filed a reply brief on November 9, 2022. [See Doc. 46.] On January 12, 2023, the Magistrate Judge issued a Report and Recommendation that Chowning's second motion to amend his complaint be denied. [See Doc. 69.] On January 24, 2023, Chowning filed an objection to the Magistrate's report and recommendation. [See Doc. 74.] On February 7, 2023, Defendants filed a response to Chowning's objection to the Magistrate's report and recommendation. [See Doc. 86.] As of the date of this stipulation, the Court has not yet conducted a de novo review of those portions of the Magistrate's recommendation to which Chowning has objected, as required by Local Rule IB 3-2.

11. **Pending Motion No. 5:** On March 16, 2023, Defendants filed a motion for leave to amend their answers to the first amended complaint. [See Doc. 91.] Chowning filed an opposition to that motion on March 28, 2023. [See Doc. 94.] Defendants filed a

1 reply brief on April 4, 2023. [See Doc. 97.] As of the date of this stipulation, the Court  
2 has not issued a ruling on that motion.

3 12. **Pending Motion No. 6:** On March 17, 2023, Chowning filed a motion to  
4 strike Defendants' answer on the ground of spoliation of material evidence. [See Docs. 92  
5 and 93.] Defendants filed an opposition to that motion on March 29, 2023. [See Doc. 95.]  
6 Chowning filed a reply brief on April 5, 2023. [See Doc. 98.] As of the date of this  
7 stipulation, the Court has not yet issued a ruling on that motion.

### 8 **Proposed New Case Schedule**

9 13. Because both appeals in the Underlying Action have been resolved, the  
10 parties now request that the Court lift the stay of the proceedings in this action and issue an  
11 order approving the following proposed schedule for the remaining pretrial dates and  
12 deadlines in this case:

	<del>Proposed</del> New Deadline
Discovery Cutoff	March 18, 2025
Last Date for Filing Dispositive Motions	April 17, 2025
Joint Proposed Pretrial Order and FRCP	May 16, 2025
26(a)(3) Disclosures	

### 18 **Conclusion**

19 14. Based on the forgoing, the parties respectfully ask the Court to lift the stay of  
20 the proceedings in this case and enter a new case schedule as requested above.  
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1 Dated this 18<sup>th</sup> day of September, 2024

Dated this 18<sup>th</sup> day of September, 2024

2 **LAW OFFICE OF DAVID**  
3 **SAMPSON**

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9 *Attorney for Plaintiff*

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13 **IT IS SO ORDERED.**

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16 **UNITED STATES MAGISTRATE JUDGE**

17 **DATED:** October 2, 2024  
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